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8 **BEFORE THE**
9 **BOARD OF VOCATIONAL NURSING AND PSYCHIATRIC TECHNICIANS**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. VN-2010-4083

13 **THELMA JOSEPHINE HARDISON**
118 E. Burnett Street
Long Beach, CA 90806

A C C U S A T I O N

14 Vocational Nurse License No. VN 219399

15 Respondent.

16
17 Complainant alleges:

18 **PARTIES**

19 1. Teresa Bello-Jones, J.D., M.S.N., R.N. (Complainant) brings this Accusation solely in
20 her official capacity as the Executive Officer of the Board of Vocational Nursing and Psychiatric
21 Technicians, Department of Consumer Affairs (Board).

22 2. On or about March 9, 2006, the Board of Vocational Nursing and Psychiatric
23 Technicians (Board) issued Vocational Nurse License No. VN 219399 to Thelma Josephine
24 Hardison (Respondent). The Vocational Nurse License expired on August 31, 2011, and has not
25 been renewed.

26 **JURISDICTION**

27 3. This Accusation is brought before the Board, under the authority of the following
28 laws. All section references are to the Business and Professions Code unless otherwise indicated.

STATUTORY PROVISIONS

4. Section 118, subdivision (b), states, in pertinent part, that the suspension, expiration, surrender, or cancellation of a license shall not deprive the Board jurisdiction to proceed with a disciplinary action during the period within which the license may be renewed, restored, reissued or reinstated. Under section 2892.1 of the Code, the Board may renew an expired license at any time within (4) four years after the expiration.

5. Section 490 states, in pertinent part:

"(a) In addition to any other action that a board is permitted to take against a licensee, a board may suspend or revoke a license on the ground that the licensee has been convicted of a crime, if the crime is substantially related to the qualifications, functions, or duties of the business or profession for which the license was issued.

"(b) Notwithstanding any other provision of law, a board may exercise any authority to discipline a licensee for conviction of a crime that is independent of the authority granted under subdivision (a) only if the crime is substantially related to the qualifications, functions, or duties of the business or profession for which the licensee's license was issued.

"(c) A conviction within the meaning of this section means a plea or verdict of guilty or a conviction following a plea of nolo contendere. Any action that a board is permitted to take following the establishment of a conviction may be taken when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal, or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under the provisions of Section 1203.4 of the Penal Code."

6. Section 492 states:

"Notwithstanding any other provision of law, successful completion of any diversion program under the Penal Code, or successful completion of an alcohol and drug problem assessment program under Article 5 (commencing with section 23249.50) of Chapter 12 of Division 11 of the Vehicle Code, shall not prohibit any agency established under Division 2 ([Healing Arts] commencing with Section 500) of this code, or any initiative act referred to in that division, from taking disciplinary action against a licensee or from denying a license for

1 professional misconduct, notwithstanding that evidence of that misconduct may be recorded in a
2 record pertaining to an arrest.

3 "This section shall not be construed to apply to any drug diversion program operated by any
4 agency established under Division 2 (commencing with Section 500) of this code, or any
5 initiative act referred to in that division."

6 7. Section 2875 states, in pertinent part, that the Board of Vocational Nursing and
7 Psychiatric Technicians ("Board") may discipline the holder of a vocational nurse license for any
8 reason provided in Article 3 (commencing with section 2875) of the Vocational Nursing Practice
9 Act.

10 8. Section 2878 states, in pertinent part:

11 "The Board may suspend or revoke a license issued under this chapter [the Vocational
12 Nursing Practice Act (Bus. & Prof. Code, 2840, et seq.)] for any of the following:

13 "(a) Unprofessional conduct, which includes, but is not limited to, the following:

14

15 "(d) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the
16 violating of, or conspiring to violate any provision or term of this chapter.

17

18 "(f) Conviction of a crime substantially related to the qualifications, functions, and duties
19 of a licensed vocational nurse, in which event the record of the conviction shall be conclusive
20 evidence of the conviction.

21 "(j) The commission of any act involving dishonesty, when that action is related to the
22 duties and functions of the licensee."

23 9. Section 2878.5 states, in pertinent part:

24 "In addition to other acts constituting unprofessional conduct within the meaning of this
25 chapter [the Vocational Nursing Practice Act] it is unprofessional conduct for a person licensed
26 under this chapter to do any of the following:

27 "(a) Obtain or possess in violation of law, or prescribe, or except as directed by a licensed
28 physician and surgeon, dentist or podiatrist administer to himself or herself or furnish or

1 administer to another, any controlled substance as defined in Division 10 of the Health and Safety
2 Code, or any dangerous drug as defined in Section 4022.

3 "(b) Use any controlled substance as defined in Division 10 of the Health and Safety
4 Code, or any dangerous drug as defined in Section 4022, or alcoholic beverages, to an extent or in
5 a manner dangerous or injurious to himself or herself, any other person, or the public, or to the
6 extent that the use impairs his or her ability to conduct with safety to the public the practice
7 authorized by his or her license.

8 "(c) Be convicted of a criminal offense involving possession of any narcotic or dangerous
9 drug, or the prescription, consumption, or self-administration of any of the substances described
10 in subdivisions (a) and (b) of this section, in which event the record of the conviction is
11 conclusive evidence thereof."

12 10. Section 2878.6 states:

13 "A plea or verdict of guilty or a conviction following a plea of nolo contendere made to a
14 charge substantially related to the qualifications, functions and duties of a licensed vocational
15 nurse is deemed to be a conviction within the meaning of this article. The board may order the
16 license suspended or revoked, or may decline to issue a license, when the time for appeal has
17 elapsed, or the judgment of conviction has been affirmed on appeal or when an order granting
18 probation is made suspending the imposition of sentence, irrespective of a subsequent order under
19 the provisions of Section 1203.4 of the Penal Code allowing such person to withdraw his plea of
20 guilty and to enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing the
21 accusation, information or indictment."

22 REGULATORY PROVISIONS

23 11. California Code of Regulations, title 16, section 2521, states, in pertinent part:

24 "For the purposes of denial, suspension, or revocation of a license pursuant to Division 1.5
25 (commencing with Section 475) of the Business and Professions Code, a crime or act shall be
26 considered to be substantially related to the qualifications, functions or duties of a licensed
27 vocational nurse if to a substantial degree it evidences present or potential unfitness of a licensed
28 vocational nurse to perform the functions authorized by his license in a manner consistent with

1 the public health, safety, or welfare. Such crimes or acts shall include but not be limited to those
2 involving the following:

3

4 "(c) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the
5 violation of, or conspiring to violate any provision or term of Chapter 6.5, Division 2 of the
6 Business and Professions Code."

7 **DANGEROUS DRUG**

8 12. "Methamphetamine," is a Schedule II controlled substance as designated by Health
9 and Safety Code section 11055, subdivision (d)(2), and is categorized as a dangerous drug
10 pursuant to Business and Professions Code section 4022.

11 **COST RECOVERY**

12 13. Section 125.3 provides, in pertinent part, that the Board may request the
13 administrative law judge to direct a licensee found to have committed a violation or violations of
14 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
15 enforcement of the case.

16 **FIRST CAUSE FOR DISCIPLINE**

17 **(Conviction of a Substantially-Related Crime)**

18 14. Respondent is subject to disciplinary action under sections 490, 2878, subdivision (f),
19 in conjunction with California Code of Regulations, title 16, section 2521, on the grounds of
20 unprofessional conduct, in that Respondent was convicted of a crime that is substantially related
21 to the qualifications, functions, and duties of a vocational nurse as follows:

22 a. On or about April 05, 2011, Respondent was convicted of one misdemeanor count of
23 violating Penal Code section 853.7 [violation of written promise to appear in court], in the
24 criminal proceeding entitled *The People of the State of California v. Thelma Josephine Hardison*
25 (Los Angeles County Superior Court Case No. 1LG06645). The court sentenced Respondent to
26 serve 6 days in jail, and placed her on probation for a period of 1 year. The circumstances
27 surrounding the conviction are that on or about November 04, 2010, Respondent did willfully
28 violate her written promise to appear in court order on Citation No. B288065.

1 **SECOND CAUSE FOR DISCIPLINE**

2 **(Illegal Use of Drugs and / or Alcohol Posing Danger to Public & Impair Practice)**

3 15. Respondent is subject to disciplinary action under section 2878.5, subdivisions (a)
4 and (b), on the grounds of unprofessional conduct, in that Respondent admitted to using
5 methamphetamine on March 31, 2011, to a Los Angeles Sheriff's Deputy as follows:

6 a. On or about March 31, 2011, a Los Angeles Sherriff's Deputy made a routine traffic
7 stop of a vehicle in which Respondent was riding for failing to have a front license plate. The
8 officer made contact with the Respondent, and with her permission searched a purse in the
9 vehicle belonging to the Respondent. The officer recovered methamphetamine inside of an
10 orange pill bottle. The Respondent admitted to the officer that she had used methamphetamine.
11 In the criminal proceeding entitled *The People of the State of California v. Thelma Hardison* (Los
12 Angeles County Superior Court Case No. 1BF01112), the court placed Respondent on a deferred
13 entry of judgment for a period of 18 months. The Respondent successfully completed the terms
14 of the judgment and the case was dismissed on April 12, 2012.

15 **THIRD CAUSE FOR DISCIPLINE**

16 **(Illegal Possession, Prescribing, Self-Administration of a Controlled Substance)**

17 16. Respondent is subject to disciplinary action under section 2878.5, subdivisions (a),
18 (b), and (c), on the grounds of unprofessional conduct, in that Respondent was found to be in
19 possession of a controlled substance on or about March 31, 2011. Complainant refers to and
20 incorporates all the allegations contained in paragraph 15 above, subparagraph (a), inclusive, as
21 though set forth fully.

22 **FOURTH CAUSE FOR DISCIPLINE**

23 **(Acts Involving Dishonesty, Fraud, and Deceit)**

24 17. Respondent is subject to disciplinary action under section 2878, subdivision (j), on
25 the grounds of unprofessional conduct, in that Respondent was convicted of a crime that involved
26 a dishonest act. Complainant refers to and incorporates all the allegations contained in paragraph
27 14 above, subparagraph (a), inclusive, as though set forth fully.

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1 **FIFTH CAUSE FOR DISCIPLINE**

2 **(Failure to Abstain from Chemical/Substance Abuse)**

3 18. Respondent is subject to disciplinary action under section 2878, subdivision (a), on
4 the grounds of unprofessional conduct, in that Respondent failed to abstain from
5 chemical/substance abuse when she was found to be in possession of a controlled substance on
6 March 31, 2011. Complainant refers to and incorporates all the allegations contained in
7 paragraph 15 above, subparagraph (a), inclusive, as though set forth fully.

8 **SIXTH CAUSE FOR DISCIPLINE**

9 **(Unprofessional Conduct / Violate Act)**

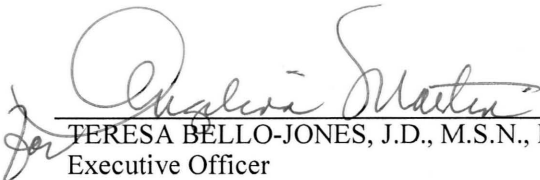
10 19. Respondent is subject to disciplinary action under sections 2875, 2878, subdivision
11 (d), and 2878.5, on the grounds of unprofessional conduct, in that Respondent was convicted of a
12 crime that involved unprofessional conduct and / or acts violating the Vocational Nursing Practice
13 Act. Complainant refers to and incorporates all the allegations contained in paragraphs 14
14 through 18 above, inclusive, as though set forth fully.

15 **PRAYER**

16 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
17 and that following the hearing, the Board issue a decision:

- 18 1. Revoking or suspending Vocational Nurse License No. VN 219399, issued to Thelma
19 Josephine Hardison;
- 20 2. Ordering Thelma Josephine Hardison to pay the Board the reasonable costs of the
21 investigation and enforcement of this case, pursuant to Business and Professions Code section
22 125.3; and
- 23 3. Taking such other and further action as deemed necessary and proper.

24
25 DATED: May 31, 2013

26 
TERESA BELLO-JONES, J.D., M.S.N., R.N.
Executive Officer
Board of Vocational Nursing and Psychiatric Technicians
Department of Consumer Affairs
State of California
Complainant